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**Committee on Commerce, Science and Transportation
United States Senate
March 29, 2000**

"The Fundamental Differences Between Legal and Illegal Sports Wagering"

I. Introduction

Mr. Chairman and other distinguished members of the Committee:

I am pleased to be here today on behalf of the American Gaming Association to discuss legal and illegal sports wagering and their separate effects. We welcome this opportunity to set the record straight about the fundamental differences between the legal sports wagering that takes place on a relatively limited basis in my home state of Nevada and the massive illegal gambling that flourishes in the other 49 states, particularly on and around college campuses.

The American Gaming Association is the national trade association for U.S. commercial hotel-casino companies and casino operators, gaming equipment manufacturers, and vendor-suppliers of goods and services to the commercial gaming industry. Our members are primarily comprised of publicly traded companies that are carefully licensed and closely supervised by state regulators. These companies are also subject to federal supervision by the Securities and Exchange Commission on general corporate matters as well as by other federal agencies on specific gaming-related issues (e.g., taxation and money handling).

The U.S. commercial casino industry directly employs hundreds of thousands of people and indirectly employs many hundreds of thousands more in each of the 11 states that permit

commercial casino gaming. Our industry has invested billions of dollars in those 11 states on behalf of its tens of millions of direct and indirect shareholders, including several states represented on this committee: Nevada, Michigan, Missouri, Louisiana and Mississippi.

Our members are major sources of state and local tax revenues in these 11 states and outstanding corporate citizens with stellar records of commitment to the communities in which they operate. Just last month, the gaming industry was singled out for recognition at a Capitol Hill luncheon by local United Way organizations in the nation's major commercial gaming markets for their charitable contributions and those of their employees. In addition, commercial gaming companies purchase billions of dollars of goods and services from virtually every state in the country in order to serve our tens of millions of customers.

The American Gaming Association's Nevada members operate legal race and sports books in their Nevada hotel-casino-resorts. For all practical purposes, Nevada is the only state in which legal sports wagering is permitted, by acts of Congress and the Nevada legislature, on college and professional sports. (The Oregon lottery has a weekly state lottery game based on professional football games during the NFL season.)

II. Summary

We agree that rampant illegal gambling on sports, including among college students, is a very serious national problem. We also share the goal of protecting the integrity of amateur athletics. For these reasons, Nevada's legal sports books are part of the solution, not part of

the problem. This is particularly true when the volume of legal sports wagering is small relative to massive illegal gambling.

Nevada's limited legal sports wagering is easily distinguished from the illegal sports gambling that should be of concern to this Committee. There is no factual basis on which to lump them together, nor is there any connection between the two. The argument that the one-percent of sports wagering in Nevada somehow "fuels" the 99 percent out-of-state that is illegal is absurd on its face. The NCAA knows better because it did not seek to ban Nevada's sports wagering when it made detailed recommendations to the National Gambling Impact Study Commission (NGISC) just last year. In fact, the NCAA said it would not do so.

The Committee does not need to merely take our word that, as laudable as it is to reduce illegal sports gambling and protect amateur athletics, the pending bills to ban legal sports wagering in Nevada will not accomplish either objective. Instead, the Committee should consider the independent views of commentators, editorial writers, respected sports analysts, a sampling of which follows:

George F. Will -- "Congress now is contemplating a measure that sets some sort of indoor record for missing the point." The Washington Post, March 12, 2000.

FBI Special Agent Michael Welch -- "The mob will always be involved in sports bookmaking, whether it's legal in Las Vegas or not." The New York Daily News, March 12, 2000.

Columnist Rick Reilly -- "In fact, passing the bill would be like trying to stop a

statewide flood in Oklahoma by fixing a leaky faucet in Enid. Nevada handles only about 1% of the action on college sports. Not that bookies and the mob wouldn't very much like to get their hands on that 1%."

Sports Illustrated, March 22, 2000.

Chicago Sun-Times -- "A Nevada ban is more likely to push wagers underground or onto the Internet ... A ban will do little to stop betting on college games." Editorial of February 3, 2000.

Columnist Mike DeCourcy -- "The NCAA has put no thought whatsoever into its push ... This is strictly a public relations move that offers no tangible benefit." Column in The Sporting News of January 19, 2000.

Business Week -- "Now (the NCAA) is looking to fix its image with a bill only a bookie could love" (January 31, 2000).

USA Today Founder Al Neuharth -- "University and college presidents and coaches properly are concerned about the integrity of campus sports. But the solution to the problem is getting their own houses in order." USA Today column of March 17, 2000.

III. The Importance of Integrity to Nevada's Gaming Industry

The gaming industry, including those who operate Nevada's legal sports books, share the goal of this Committee that the integrity of amateur sports be protected for the following simple reasons.

First, many of us are former high school and college athletes and have strong memories of our own experiences playing various sports.

Second, our Nevada members have legal duties as state-licensed, regulated entities to follow, and moral obligations as good corporate citizens to uphold.

Third, and too often overlooked, is that commercial gaming companies have an overwhelming financial interest in maintaining the integrity of all games that are offered to the public, particularly those of our members who operate Nevada's sports books within their resorts.

Our industry will rightfully lose public confidence, and with it the customers on whom our employees and we depend, if the gaming offered, including sports wagers, is not conducted fairly and honestly. Furthermore, Nevada's legal sports books can lose money if a customer places a sports wager when someone is attempting to manipulate the outcome through point shaving.

It is for these reasons that legal sports books take elaborate security measures and cooperate fully and regularly with federal and state law enforcement agencies as well as with the professional sports leagues and the NCAA. To their credit, the NCAA has acknowledged the value of that assistance (see below). Thus, Nevada's sports books are part of the solution, not part of the problem

IV. Key Aspects Of Nevada's State-Regulated Sports Books

A. Overview

Legal sports wagering in Nevada is relatively small in volume, accessible only by adults who are Nevada residents or visitors to the state, strictly regulated, closely-supervised, subject to taxation, and part of a broader entertainment experience that drives the industry that is the

backbone of Nevada's economy.

As with gaming and gambling generally, there are fundamental distinctions between legal and illegal sports wagering. It is simply wrong to lump them together or to manufacture connections between them where none exist. These distinctions are not just of degree or shades of gray, but bold differences that make them separate types of activities that should be viewed accordingly by this Committee when examining various types of sports wagering and their effects.

B. High School and Olympic Wagering Are “Red Herrings”

At the outset, I would like to emphatically dispense with two "red herrings" that the NCAA has thrown into this debate to divert attention from the real issues.

First, there is no legal wagering on high school sports in Nevada and representatives of national high school associations have acknowledged that fact. By contrast, there no doubt is a serious problem on high school campuses with students betting on sports and otherwise gambling with other high school students.

Nevada's state-regulated sports books have nothing to do with what happens in high school hallways across the country. Instead of being allowed to get away with this maneuver, those high school groups that have weighed in on the issue of Nevada's legal sports books should be called to account for what they are or are not doing about the serious problem of illegal gambling in their own schools. To do anything less is to miss an opportunity to raise student awareness and thus affect student behavior in a positive direction.

Second, when it comes to the Olympics, there has been only minimal legal wagering on

selected events such as the men's basketball “Dream Team” several years ago. The wagering volumes on these events have been very small. It is important to point out that a representative of the U.S. Olympic Committee recently told the Associated Press that this virtually nonexistent legal wagering has caused no problems. Nonetheless, Nevada gaming regulators will have to determine on a case-by-case basis whether any Olympic wagering is ever appropriate in the future.

C. State Regulation of Legal Sports Books

Legal wagering on professional and college sports in Nevada is subject to careful regulation by the Nevada Gaming Commission and the Nevada Gaming Control Board. Only adults who are at least 21 years of age and physically present may place a legal wager with a Nevada sports book. Out-of-state wagering is strictly prohibited. Nevada's regulators have taken steps in recent years to strengthen this and related prohibitions. There is no suggestion, much less any evidence, that Nevada's legal sports books are anything but well regulated and well run.

Nevada's gaming regulators, including Gaming Commission Chairman Brian Sandoval and Gaming Control Board Chairman Steve DuCharme, their commission and board colleagues, and their staffs, can provide additional information to the Committee on Nevada's strict regulatory regime. You will find that there are sound reasons why Nevada's gaming regulatory system is used as a model by other jurisdictions, not only in the United States, but also around the world.

When it comes to the regulation of sports wagering, Bobby Siller, the former Special

Agent in Charge of the Las Vegas office of the FBI, and currently a member of the Nevada Gaming Control Board told the Las Vegas Review-Journal: "From what I understand of this legislation (to ban legal college wagers), it defeats the one system, the Nevada system, which has the ability to detect illegal gambling" (February 6, 2000).

D. Federal Law, Gaming Policy and Sports Wagering

1. The Professional & Amateur Sports Protection Act (PASPA)

Congress explicitly recognized the importance of legal gaming, including sports wagering, to Nevada and its economy when the Professional and Amateur Sports Protection Act (PASPA) was enacted in 1992. Far from being a "loophole," as some now erroneously claim, PASPA's "grandfather clause" was included by Congress to defer to all states, including Nevada, with pre-existing sports-wagering statutes. This was done to protect legitimate economic interests and legal principles. Senate Report 102-248 reads in pertinent part as follows:

Neither has the committee any desire to threaten the economy of Nevada, which over many decades has come to depend on legalized private gambling, including sports gambling, as an essential industry, or to prohibit lawful sports gambling schemes in other States that were in operation when the legislation was introduced. (...)

Under paragraph (2) [of S. 474], casino gambling on sports events may continue in Nevada, to the extent authorized by State law, because sports gambling actually was conducted in Nevada between September 1, 1989, and August 31, 1990, pursuant to State law. Paragraph (2) is not intended to prevent Nevada from expanding its sports betting schemes into other sports as long as it was authorized by State law prior to the enactment of this Act. Furthermore, sports gambling covered by paragraph (2) can be conducted in any part of the State in any facility in that State, whether such facility currently is in existence.

PASPA's preservation of previously enacted state statutes is consistent with the fact

that since the founding of our country, states, not the federal government, have determined what gambling should be permitted in each state, if any, and how any lawful wagering is regulated. The principle of federalism underlying this division of authority is enshrined in the Tenth Amendment to the U.S. Constitution. A unanimous National Gambling Impact Study Commission, a majority of whose members were self-described as "anti-gambling", reaffirmed this approach. (See Recommendation 3.1 in the NGISC's June 1999 Final Report.) The primacy of state gaming regulation continues to enjoy broad public support (75 percent in an American Viewpoint survey last year).

Furthermore, the "grandfather clause" in PASPA is consistent with the legislative purpose of that statute. The statute's legislative history clearly reflects that PASPA's primary purpose is to prevent the expansion of sports wagering as a state-sponsored activity via state lottery games.

2. Nevada Has Relied On Current Federal Law For A Decade

Nothing has changed since 1992 to alter the legal and economic basis for PASPA's prospective application. If anything, the passage of almost a decade of time strengthens the case for not re-opening (much less arbitrarily overturning) that "grandfather clause." Until only recently, there has not been a single complaint about it from the NCAA or any other interested party, including when the NCAA testified on several occasions before the National Gambling Impact Study Commission just last year (see below).

In reliance on PASPA's "grandfather clause," Nevada's casino-hotel industry has invested tens of millions of dollars in state-of-the-art race and sports books that are very

popular with millions of their adult patrons each year. This is particularly true in each of the major "mega-resorts" that have opened on the Las Vegas Strip in the past few years as well as sports books in resorts of longer standing. The overall investment in each of the "mega-resorts" nearly exceeds or does exceed one billion dollars apiece.

Furthermore, now that commercial casino gaming has spread to ten other states, and Native American casinos have spread to about half the states, mainly since PASPA's enactment, Nevada's "grandfather clause" has taken on even greater economic significance. Legal sports wagering is one of the characteristics of Nevada's resort experience that distinguishes it from that offered in other states.

E. Sports Wagering and Nevada's Destination Resorts Today

1. Overview

Legal sports wagering is enjoyed by many of Nevada's nearly 40 million visitors each year, nearly 34 million of which visit Las Vegas. These visitors come from all 50 states and dozens of foreign countries. For those who do so, placing a legal sports wager in a closely supervised setting is just part of the broader entertainment experience that destination resorts provide. The race and sports books offer a safe and comfortable surrounding to view sporting contests on large screen systems that in part duplicate the fun of seeing a game in person.

Visitors no longer come to Nevada solely or even primarily for casino gambling. Visitors increasingly spend their precious leisure time and hard-earned vacation dollar on fine dining, viewing fine art, playing golf and pursuing other recreational activities, and seeing

spectacular headliners and production shows, in addition to taking part in exciting casino gaming. In addition, there are now many unique retail outlets and national chains whose Las Vegas stores are among their highest-grossing locations. Nevada is still the home for professional boxing championships and other bouts, while more recently it has become the home for professional golf tournaments, rodeo events and NASCAR races.

When coming to Nevada, visitors to our state also frequently make side trips to experience the great natural wonders of our region, from the heights of the Sierra Nevada mountains near Lake Tahoe to the depths of the Grand Canyon in our neighboring state of Arizona.

2. The Economic Significance Of Nevada's Sports Books

While race and sports book revenue is a small percentage of the total gaming and non-gaming revenue in Nevada each year, this comparison vastly understates the importance of legal sports wagering to Nevada's tourism industry and the jobs that are dependent on it. For example, this past January, an estimated 250,000 visitors came to Las Vegas for Super Bowl Weekend when the hotel occupancy rate was essentially 100 percent. The Las Vegas Convention & Visitors Authority estimated that the non-gaming economic impact of these visitors was \$80 million over that single weekend.

A similar economic impact is occurring this month during the NCAA basketball tournament and will occur again this fall during football season. The jobs generated are not only those in the race and sports books, but extend throughout each of the hotel-casino-resort complexes to maids, valet parking attendants, food and beverage servers, and casino floor

personnel. This job creation also includes those employed by the airlines, rental car agencies and taxi services that transport visitors to and around the fastest-growing major metropolitan area in the country. These jobs, as well as general and tourist-specific federal, state, and local tax levies, help generate billions of dollars in federal, state and local government revenues annually.

F. The History of Nevada's Legal Sports Wagering

To understand legal sports wagering in Nevada, and the fundamental differences between legal sports wagering and illegal sports gambling, it is important to understand a little bit of history.

While legal race and sports wagering in Nevada dates back to the 1930s and 1940s, the modern race and sports books at hotel-casino-resorts only go back to about the late 1970s and early 1980s. In the earlier years, the legal wagering facilities were known as "turf clubs" that were separate from hotel-casinos and largely offered horseracing bets, with only small amounts of wagering on team sports. This changed as a regulatory regime was put in place that allowed hotel-casinos to operate legal race and sports books, as the popularity of team sports increased, and as team sports became more widely distributed over a wider variety of cable and non-cable TV channels (many devoted exclusively to sports). The expansion of television coverage allowed fans from the around the country to follow and develop a loyalty to teams outside of their traditional "home" areas.

G. Legal Sports Wagering Is Dwarfed By Illegal Sports Gambling

A critical point to make about legal sports wagering in Nevada is that it is relatively

small, in fact almost infinitesimal, in comparison to the various forms of illegal sports gambling.

According to the National Gambling Impact Study Commission's Final Report, the "guesstimates" of illegal sports gambling range as high as \$380 billion each year (Final Report at page 2-14). By contrast, the total legal sports wagering in Nevada is less than one percent of that amount. The Final Report concluded that "sports betting [is] the most widespread and popular form of gambling in America" (Final Report at page 2-14).

This month's NCAA men's basketball tournament is a case in point. The total amount wagered legally in Nevada will run between \$60 and \$80 million. (As with all legal sports wagering, the net revenue to the sports books is less than five percent of the total amount wagered.) By contrast, published reports indicate that in 1995 the FBI estimated that the amount wagered illegally was \$2.5 billion. That amount has no doubt grown with the NCAA's marketing efforts and the growing popularity of the tournament. NCAA president Cedric Dempsey was quoted in the news media last year as estimating that illegal wagers on the tournament would be closer to \$4 billion that year. An article in The Cincinnati Post (March 18, 2000) stated that \$3 billion would be bet illegally this month. The Christian Science Monitor (March 22, 2000) said that, "An estimated 10 million fans will go online to get odds or more information on teams, often to place wagers."

V. Illegal Sports Gambling Is A Serious National Problem

A. Overview

Distinct from legal sports wagering, illegal sports gambling takes many forms. At one end of the spectrum are office pools and other casual betting among friends that many argue is

harmless. While in most states this gambling technically violates the law, as the NGISC found it is not prosecuted. On the other end of the spectrum is the dark underworld of professional and amateur bookies in many communities and on too many college campuses. These bookies often have direct or indirect links to organized crime, as the NGISC learned in testimony from a New York City Police Detective who has done undercover work in this area (See NGISC hearing on September 11, 1998). This organized crime connection extends, at least indirectly, to student bookies on many college campuses (NGISC Final Report at page 3-10).

B. Illegal Sports Gambling Over the Internet

The most dangerous development in the growth of illegal sports gambling is the Internet, whose illegal operators stand to benefit if Nevada's legal sports wagers are banned. Given widespread access to the Internet, including by minors, and the fact that persons operating Internet gambling sites are unregulated and offshore, the negative effects of this form of illegal gambling will only grow.

According to a recent in-depth report by Bear, Stearns & Co., there are now more than 650 Internet gambling sites, including many that take sports wagers. The growth in Internet gambling was 80 percent from 1998 to 1999. Thus, every home with a personal computer is a portal for young and old alike to wager on sports and otherwise, illegally, with unregulated cyber-casinos and cyber-sports books that lack the legal protections that apply to Nevada's state-regulated sports books. Internet gambling will be unaffected by a ban on Nevada's sports books taking college sports wagers.

C. Illegal Sports Gambling Is Already Illegal

Illegal sports wagering thrives despite the fact that federal and state law already prohibits it. For example, as a general rule, every state prohibits all forms of gambling that are not expressly approved by law, and then, only by state-licensed enterprises. This is equally true for sports gambling. In addition, PASPA prevents additional states from sponsoring sports wagering via state lotteries and from authorizing it via private entities within their states. Use of the telephone or the wires to transmit wagers across state lines has been against federal law since the early 1960s. Sports bribery is a serious federal crime. Other federal statutes prohibit the interstate shipment of certain gambling paraphernalia and the transport of unregulated wagering devices.

Thus, if merely enacting prohibitory laws were enough to deter this activity, the problem would not be as severe as all concede it is today. The solution, then, is not a matter of having more laws on the books to prohibit illegal sports gambling or banning the very small amount that takes place in Nevada. Rather, the solutions lie in properly enforcing existing laws and making certain that the penalties are adequate to deter violations. Congress should hear directly from federal, state and campus law enforcement officials before deciding whether to proceed with the pending legislation to ban college sports wagering in Nevada to the exclusion of concrete steps to address illegal sports gambling.

D. Illegal Sports Gambling on College Campuses is Out of Hand

The problems created by the various forms of illegal sports gambling are compounded many times over on our nation's college campuses. The NGISC concluded that, "There is considerable evidence that sports wagering is widespread on America's college campuses"

(Final Report at page 3-10).

First, given the extent to which our nation's colleges and their students are wired to the Internet, a lone laptop in a single dorm room on any campus in the country has more access to sports gambling sites than there are legal sports books in Nevada. That access by underage students will continue uninterrupted if Nevada's adult visitors and residents are denied access to legal sports books. College administrators should do something directly about access to Internet gambling on their campuses, like installing appropriate filtering software on campus-owned computers and limiting credit card marketing to their students.

Second, according to no less a source than the NCAA, there are illegal student bookies on virtually every college campus in the country, including some with links to organized crime (as noted above). This burgeoning phenomenon was well-documented as far back as 1995 when Sports Illustrated published a three-part investigative series aptly called "Bettor Education" that began with this ominous warning:

Gambling is the dirty little secret on college campuses, where it's rampant and prospering. This SI special report reveals how easy it is for students to bet with a bookie, become consumed with wagering and get over their heads in debt.

The student-run illegal bookmaking operations described by Sports Illustrated are so prevalent and profitable that fraternities reportedly pass them on from graduating seniors to "deserving" underclassmen. If a January 12, 2000, article in the student newspaper of the University of Pittsburgh is any indication, the description in the Sports Illustrated article remains accurate today. (See, "Gambling teaches students painful life lessons," The Pitt News, and "College betting rampant" in The Cincinnati Post of March 18, 2000.)

Students gambling with student bookies and students gambling informally with friends

are commonplace despite the fact that this is blatantly illegal activity. By their own admission, the NCAA and its member institutions have been unable or unwilling to contain that activity. This phenomenon even extends to a large percentage of the student-athletes over whom the NCAA has the most control, despite the fact that any sports gambling (on professional or college games) is a violation of existing NCAA rules.

The NGISC Final Report cites a University of Michigan survey of NCAA Division I athletes published last year. The survey found that 45 percent of male student athletes gambled on sports (college or professional). The mean amount wagered through an illegal bookmaker was \$57.25, or an average of \$225 each month. Most alarming, four percent reported having provided inside information, two percent bet on games in which they played, and almost one-half of one percent (2 of the 460 male respondents) indicated they had received money for not playing well in a game.

Despite the publication of the Sports Illustrated warning four years earlier, the NCAA's staff painted a dismal picture of its efforts at the NGISC's February 1999 hearings. William Saum, the NCAA's Director of Agent and Gambling Activities, and David Nestel, the NCAA's Assistant Director of Federal Relations, gave the following testimony (according to the published hearing transcripts).

MR. SAUM: We are starting to make baby steps forward by merely talking about it. (...) We have a major problem on our campuses, we can remove the -- if we can take action with the student bookies on our campus, if we can convince our students and our student athletes that the activity is illegal, and that they should not accept it, we can convince our college presidents, convince our student affairs officers, I believe that that is a first step forward. (...)

I would say to you that three, four, five years ago, because we weren't doing our part, that possibly our student athletes didn't even know that laying a 20 dollar wager with a

student bookie in the frat house was a violation of rule, or illegal. (...) (emphasis added).

MR. NESTEL: And that we have found that our administrators, not just athletic administrators, but the college administrators on campus don't recognize this as a problem it doesn't smell, it doesn't -- a lot of this now with Internet gambling can go down privately behind closed doors. And it is hard to recognize. And so the message that can be sent here is that we need to raise awareness. (emphasis added)

MR. SAUM: The NCAA, for the past 50, 55 years, has always cared about the issue of gambling, but in September of '96 they created the position which I'm fortunate enough to sit in. In November they promoted that position to a mid-management level position within the association. (...) We are also proposing to add staff to the issue of gambling. We are willing to step up to the plate with money. It will not be substantial sums of money, it will be more money than we have ever spent in the past. (...) I'm not saying they are enough, they are not. Are we behind, yes. But I think we are doing something. (...)

But certainly our institutions' feet must be held to the fire. (emphasis added)

E. Conclusion

Mr. Chairman, with all due respect, diverting attention from the serious problem on college campuses by concentrating solely on the limited legal college sports wagering by adults in a controlled-setting in Nevada, in the face of the spreading cancer on college campuses, is not holding their feet to the fire as independent analysts have recommended and the NCAA's testimony supports.

VI. The NCAA's Position On Legal Sports Books Is Not Factual

A. Overview

If legal sports wagering in Nevada were relevant to illegal sports gambling, or threatened a matter as paramount as the integrity of amateur athletics, the NCAA would have sought repeal of PASPA's "grandfather clause" long before now. Similarly, the NCAA would have made a recommendation to the National Gambling Impact Study Commission to repeal

Nevada's "grandfathered" PASPA status. It did not do so.

B. The NCAA's Presentations to the NGISC Are Being Ignored

In its presentations to the NGISC, the NCAA concentrated almost exclusively on illegal sports gambling without any claim of a connection between legal wagering in Nevada and illegal gambling. The most illuminating evidence is found in the November 10, 1998, hearing in, ironically, Las Vegas. At that hearing, Mr. Saum concentrated on the dangers and causes of illegal sports gambling without reference to Nevada. The following exchange occurred with Commissioner James Dobson (no friend of the gaming industry, to be sure):

DR. DOBSON: Mr. Saum, you addressed most of your comments to illegal sports gambling. You didn't have much to say about legalized gambling on sporting activities. Would you like to comment on that?

MR. SAUM: Commissioner Dobson, Madam Chair and the rest of the commissioners, we -- fundamentally the NCAA is opposed to legal and illegal sports wagering, but much like this Commission, we have not drawn a moral line in the sand that we are going to come out and attempt to change the law. Certainly, we would be adamantly opposed to any further legalization across the United States. If we're going to have sports wagering, let's keep it in Nevada and nowhere else. Let's not allow individuals to wager from outside the state lines. (...)
So I don't think you will see the NCAA start a campaign to remove sports wagering from the State of Nevada, but you would see us jump to our feet if it would expand outside of state (sic). (emphasis added)

Later in the hearing, Mr. Saum was asked by Commissioner Leo McCarthy to provide the commission with the NCAA's detailed sports wagering recommendations. Those recommendations were furnished to the commission in a six-page, single-spaced letter from NCAA president Cedric Dempsey dated January 28, 1999.

First, the opening page of Mr. Dempsey's letter contains a startling admission:

Despite our increased efforts in the area of sports gambling education, the NCAA is only scratching the surface in addressing the disturbing pattern of gambling behavior

among college students and youth. It is our hope that targeted recommendations contained in the Commission's final report will provided the impetus for much needed action while also bringing focus to a problem that has long been overlooked.

The letter makes no mention of Nevada's legal wagering as a source of the illegal gambling problem or as a threat to the integrity of amateur athletics. There is likewise no request that Nevada's legal wagering be banned.

Only several weeks after the NCAA's recommendation letter was sent to the NGISC, the commission met for what was styled as a "retreat" in Virginia Beach, Virginia, on February 9 and 10, 1999. The transcript of that hearing verifies that commissioners of all views on gambling, pro and con, were unanimous in what can only be described as skepticism bordering on incredulity about the NCAA's proposals that were linked to them receiving federal funding. Several commissioners noted that the NCAA receives hefty television rights fees and other revenues from the uncompensated toil of college athletes. Commissioners suggested several ways in which the NCAA could be more active in combating illegal gambling on the sports events it sponsors.

For example, one commissioner suggested that NCAA membership criteria include requirements that members have programs to adequately address campus sports gambling problems, including mandatory codes of conduct. Several commissioners strongly recommended that the NCAA run more Public Service Announcements (PSAs) on gambling education during major bowl games and tournaments and that these obligations be incorporated in the NCAA's network television contracts. In response to the NCAA's testimony that there was an absence of sufficient scientific research to get beyond anecdotal evidence and

supposition about what needed to be done, several commissioners suggested that the NCAA take a leading role since its members include leading research universities.

While these ideas were included in the NGISC Final Report as part of Recommendation 3.13, it is unclear the extent to which the NCAA has implemented them to date. For example, during the February 10, 1999, NGISC meeting, the AGA suggested that the NCAA put the use of PSAs on gambling education in its TV contracts. In response, Mr. Saum said that the NCAA spent a paltry \$25,000 on a video for men's basketball programs that was turned into a PSA during the tournament in 1998. Mr. Saum also said:

"So your point is well made. Can we do more? Absolutely, we can do more. Can we be more creative? Yes. This is a journey we are on, and a journey never ends, and we are not even at the mid-point of this journey, so we will continue to take those ideas, and yes, we need to do that."

NGISC Chair Kay James specifically asked Mr. Saum if the NCAA would do so with respect to PSAs in its TV contracts. Later last year, the NCAA announced an unprecedented \$6 billion contract with CBS just to televise the March basketball tournament over an 11-year period. This is up from \$1.7 billion over eight years. While I have heard second-hand that at least some PSAs on gambling education have been sighted in the dozens of hours of network air time this month, there do not appear to have been many on the air with much frequency. Not doing so on "Selection Sunday" earlier this month when millions of fans, including students, started to fill out their bracket sheets was a lost opportunity.

C. The NGISC's Final Report As It Relates to Sports Wagering

Given the self-evident differences between legal and illegal sports wagering, and the NCAA's own testimony before the NGISC that it would not start a campaign to change PASPA, the question of the hour is why the NCAA is now on a singular mission to end college sports wagering only in Nevada, the one place where it is regulated and above board.

Based on a meeting with NCAA representatives on October 5, 1999, and on their subsequent public statements, their dramatic change in course is at least rhetorically based on the NCAA's interpretation of the NGISC Final Report. Congressional sponsors of legislation to prohibit Nevada's legal sports wagering in the name of doing something about illegal sports gambling have echoed the refrain that their legislation "merely implements" an NGISC recommendation.

First, the NGISC Final Report should be read in its entirety when it comes to sports gambling. In doing so, Congress should keep in mind that sports gambling was not a central focus of the commission's inquiry, in large part because the commission's charter limited it to legal wagering while about 99 percent of sports gambling is already illegal, yet remains wildly popular. Furthermore, the commission had other priorities and areas of interest. Nonetheless, it did take testimony from persons with a range of views on sports gambling, legal and illegal, and the panel did make a series of unanimous recommendations and one recommendation on which it was badly divided.

Second, when it comes to the NGISC recommendation to ban the very small amount of legal sports wagering that is currently legal, several important points must be kept in mind.

Unlike the other recommendations on sports and other topics, most of which were adopted unanimously, only a bare majority of the nine commissioners approved Recommendation 3.7 to ban legal sports wagering.

There is no request in the wording of Recommendation 3.7 that Congress re-open PASPA to repeal the Nevada grandfather clause. Thus, this recommendation must be read in light of Recommendation 3.1, which was adopted unanimously as the overarching principle of gaming regulation:

The Commission recommends to state governments and the federal government that states are best equipped to regulate gambling within their own borders with two exceptions -- tribal and Internet gambling.

It is critical to note that there is no exception for sports wagering when it comes to the level of government most suited to determine whether a particular form of wagering should be legal within a state. When the NGISC wished to recommend that Congress act in a given area, it did so explicitly, not only by carving out two express exceptions to the primacy of state regulation, but in the wording of recommendations that expressly call for congressional action.

The correct interpretation of Recommendation 3.7 as being directed to state policymakers and not to Congress to re-open PASPA is supported by the "legislative history" of its consideration. Its author, Commissioner James Dobson, first discussed the recommendation on April 7, 1999, at an NGISC meeting in Washington, D.C. The transcript of that hearing includes the following statement by Dr. Dobson on the intent of his recommendation: "And I would like to recommend that we recommend to the states that they ban legal betting on collegiate athletic contests." (April 7, 1999 transcript at 136) (emphasis

added).

D. Betting Lines In Out-of-State Newspapers

When AGA representatives met with NCAA staff on October 5, 1999, we were told that ending point spreads in newspapers to put a dent in illegal gambling was the primary reason for their proposal to repeal the Nevada "grandfather clause." There is considerable misunderstanding about who creates betting lines published by newspapers. Similarly, there is no factual foundation for the assumption that terminating legal sports wagers in Nevada will affect the availability of betting lines in the newspaper or otherwise, much less that the lack of betting lines in newspapers, even if accomplished, would have a material affect on illegal sports gambling.

We informed the NCAA in person on October 5, 1999, and in writing on October 22, 1999, that initial betting lines are generated for legal sports books by independent sports odds-making services. Decisions about whether to publish betting lines from these and other services are made by newspaper editors unconnected to Nevada's legal sports books that enjoy First Amendment protections and respond to reader interest.

For example, NCAA president Cedric Dempsey had explained in our October 5 meeting that his organization had been unsuccessful in persuading newspapers to stop publishing point spreads. He specifically mentioned USA Today as an example. The fact is that the point spreads published in that newspaper are provided by noted analyst Danny Sheridan, as the sports section of that paper clearly states. Mr. Sheridan is based in Mobile, Alabama, not in Nevada.

Even if Mr. Sheridan's line and other point spreads were to be removed from newspapers, he and many others have Internet sites where such information is readily available to the public. The same information is also available from "800" and "900" telephone services (some of which also take sports wagers illegally and even advertise their services in major newspapers and magazines, including campus publications.)

Several years ago, the NCAA tried to withhold tournament press credentials for sports reporters from newspapers that publish point spreads. The NCAA was forced to abandon that effort in the face of First Amendment and other objections. There is no basis to conclude that the NCAA would be any more successful just because legal wagering is banned. To date, the NCAA has not provided any legal analysis to support its assertion that banning Nevada's sports books from accepting legal college wagers would remove the basis on which newspapers publish this information. Since legal sports books are not responsible for publishing this information, it would be a travesty to retroactively terminate Nevada's limited legal college sports wagering on that basis, particularly without ascertaining the position of the nation's newspapers and receiving a legal opinion.

E. The Facts Behind Recent Point-Shaving Incidents On Campuses

In what appears to be a desperate attempt to generate support for their legislative proposal, the NCAA has taken to rewriting the history of recent point-shaving and other campus gambling scandals. While the NCAA's rhetoric sometimes makes it sound as if campus scandals are zooming into the stratosphere, other communications with Congress have more accurately admitted that such events are "rare" (see NCAA letter to Congress dated February

1, 2000).

The NCAA would have Congress believe that there is a cause-and-effect correlation between the number of point-shaving scandals in the 1970s, 1980s, and 1990s, and the legal sports wagering in Nevada during those decades.

At the February 1, 2000, press conference held in this very hearing room at which the NCAA and congressional sponsors announced support for their bill, the NCAA brandished a chart purporting to show such a linkage. Literally "off the chart" were both the numerous pre-1970s point-shaving scandals that occurred prior to Nevada's modern sports books, and any mention of massive illegal sports gambling outside Nevada, either before or after the 1970s. These glaring omissions included no mention of the illegal sports gambling at the heart of each of the point-shaving scandals in those decades.

The fact is that there were numerous point-shaving scandals, such as those at the University of Kentucky and at several New York City area colleges in the early 1950s, well before the modern legal sports books. Sadly, the likelihood of more point-shaving scandals will be unaffected by whether legal sports wagering is permitted in Nevada (and it may actually increase without Nevada as a watchdog).

For example, there were eight point-shaving scandals in the 1990s, according to the NCAA's chart. While eight is eight too many, such a small number is the proverbial drop in the bucket when one considers that tens of thousands of games were played in that decade without any trace of undue influence.

Despite the relatively small number of these incidents, the NCAA and its allies have

attempted to recast how and why they occurred. Some statements have used clever, loaded words like "involved" to describe the relationship between the legal sports books in Nevada and those persons on and off campus who were found legally responsible for these scandals. When confronted, the NCAA has been forced to concede as recently as two weeks ago on national television that our Nevada members and Nevada's regulators helped uncover the scandal that rocked Arizona State in the early 1990s. The NCAA's Mr. Saum also acknowledged this assistance before the NGISC last year:

The relationship that we have with Las Vegas is one that we talk about openly. If we are going to battle this problem we need everyone's assistance. We help Las Vegas, Las Vegas helps us. We have a computer right in my office that monitors the line, and you know better than the rest of us how we can work through that if the line changes.

We have relationships with Vice Presidents of -- and sports book directors that we can call and make contacts with. I care not to share who those folks are. But, yes, we do have relationships and we are not afraid to say that we do. And we, again, are in this to protect the safety and integrity of our kids, and the integrity of the contest, and when needed we will use that.

(NGISC hearing transcript of February 10, 1999, at pages 39-40).

Mr. Chairman, the computer line that Mr. Saum testified about will go blank and those relationships will cease if Nevada's legal sports books are prohibited from continuing to accept the limited college sports wagers now taken.

The NCAA even went so far as to bring to its February 1, 2000, press conference the former Notre Dame place kicker who was among those convicted in connection with the point-shaving at Northwestern University. Left out of the NCAA's summary of that case were several critical facts. What the Committee will find if it consults the public court records and those who handled these cases, or even the newspaper articles printed at the time, is a story far different

from that implied at the NCAA's February 1 press conference.

Specifically, in both the Northwestern and Arizona State cases the web of illegality began with student bookies that were allowed to flourish on these campuses and infiltrate student-athletes as bettors and sources of information. There is no suggestion in either of these cases that legal sports books in Nevada were responsible for the illegal student bookie operations. Also in each case, athletes got into debt with student bookies and sought to wipe out those debts by committing the reprehensible act of betraying their team mates and besmirching the reputations of their own schools.

Mr. Dan K. Webb, a former U.S. attorney in Chicago who represented one of the convicted campus bookies told the court at the sentencing hearing that Northwestern was "a haven for gambling" and that the atmosphere on campus "nurtured" his client's gambling addiction. (See University of Cincinnati student newspaper, The News Record, April 7, 1999.)

Again in both cases, those involved attempted to "fix" more than one game by influencing the final score and thus the point spread. Illegal wagers with bookies were placed on earlier games and on later games involved in each scandal. It was only when those committing these illegal acts outside Nevada tried to make money at the expense of Nevada's legal sports books on the later games in each scandal were those sports books somehow "involved" in what transpired.

The role of Nevada's legal sports books was not as perpetrator or witness with knowledge of what was happening back on campus illegally, as the NCAA would have you believe. Just ask those who prosecuted these cases. Instead, this so-called "involvement" was

as a potential victim, just as the victim of a street mugging is "involved" in the incident. To close Nevada's sports books to college sports wagers on this basis would be like closing banks to prevent bank robberies or closing the New York Stock Exchange to stop insider trading.

Two simple facts betray the revisionist history of the Arizona State and Northwestern cases that the NCAA would now have you believe as they advocate their punitive legislation. First, when asked by a reporter at the February 1, 2000, news conference, the former kicker who was in part responsible for this sports bribery case admitted that he went to Nevada to "con" the legal sports books and "pull one over on them."

Second, the NCAA issued a statement when that scandal broke and indictments were issued on December 5, 1997. There is no mention in that statement of any role or "involvement" by legal sports books as they now imply. This is true for a very simple reason: there was none. The lack of "involvement" by Nevada's legal sports books is true in this and other cases for a very compelling reason: as noted earlier, legal sports books have a strong financial interest in the integrity of the games and the accuracy of the betting lines on which wagers are taken.

The NCAA and its supporters have tried to cheapen the role of legal sports books in uncovering the Arizona State incident and helping with other matters by saying that they "only" stopped them after the fact. That is true for the obvious reason that they were not "involved" as the NCAA now suggests and could not possibly have known about these illegal arrangements "before the fact." Finally, it takes considerable hubris to blame our members hundreds of miles away in the middle of the Nevada desert for not being so clairvoyant as to pick up in advance what illegal activities were taking place on the distant college campuses.

The NCAA also claims that there were more scandals in the 1990s than in the previous decades combined. This accusation flies in the face of the historical record as set forth in last year's University of Michigan study that the NCAA otherwise often cites. The study outlines a laundry list of serious scandals in the 1950s and 1960s that pre-dated Nevada's modern sports books and make the incidents in the 1990s look tame by comparison.

F. The NCAA's Other Arguments Are Misplaced

Equally disturbing has been a statement that a federal ban on Nevada's legal sports books is justified because college athletes are under financial pressure. First, a recent New York Times column correctly points out that much of this pressure is a function of the NCAA's rules and regulations. ("NCAA Tournament Highlights the Carnival and the Cesspool," March 26, 2000, "Millions are made while the athletes are punished over pennies.") Second, we appear to have much more faith in the integrity of our college athletes than the NCAA. The extremely small number of sports bribery cases indicates that our student athletes are not succumbing to financial pressure as the NCAA contends.

There have also been statements that the existence of college sports wagering in Nevada amounts to commercial exploitation of "teenagers." The NCAA certainly does not come to any such discussion with clean hands, not with a \$6 billion multi-year TV contract and a list of blue-chip corporate sponsors that use college basketball players to sell everything from pizza to motor oil.

In the same vein, we have also heard the NCAA speak about the ills of sending "mixed messages" when their own corporate and network sponsors have sweepstakes and contests on

their respective web sites, including via the NCAA's own official web site. This is taking place even though current law and the pending legislation they support expressly include "sweepstakes" among the activities that are not to be linked to college sporting events.

VII. A Comprehensive Review And National Solutions Are Needed

Mr. Chairman, a very fair question of us is what should be done, in the alternative, since we strongly believe that eliminating Nevada's long-standing legal sports wagering is nothing more than empty sensational symbolism, at best.

The answer lies in methodically going back to the NGISC Final Report and the NCAA's recommendations to that panel, the breadth of which are not reflected in the pending legislation the NCAA supports.

A case in point is the creation of a Justice Department study panel as Senators Reid and Bryan, among others, have put forward in S. 2050. The NCAA's January 28, 1999, letter to the NGISC contains compelling reasons why such a panel is essential. Congress should have the benefit of the informed views of such a panel before Congress considers reversing a statute of long-standing to terminate a legal business only to find out after the fact that doing so was unnecessary or perhaps even counter-productive.

The NGISC Final Report also contains recommendations applicable beyond the sports gambling context that are relevant to this subject, such as federal Internet gambling legislation (on which we and the NCAA are in agreement) and a minimum national legal gambling age of 21 (to be implemented by the states).

VIII. Conclusion

In conclusion, Mr. Chairman, please permit me to express my very deep regret that over the last several months we have been forced into a pitched battle with the NCAA that was not of our choosing.

As our October 22, 1999, letter to NCAA president Cedric Dempsey clearly shows, the AGA tried to find ways for our two organizations to work together to reduce illegal sports gambling and to protect the integrity of amateur athletics. While the NCAA never responded to that letter (other than by coming to Congress to shut down Nevada's sports books when it comes to college wagering), we have gone ahead without them. For example, we are working with the Harvard Medical School Division on Addictions on a national model program to address a variety of potentially addictive behaviors that our young people need to avoid, including illegal gambling. The NCAA has been AWOL on this project despite being asked to participate.

The American Gaming Association has a proud record on key issues just in the short time since we were created in 1995. We have partnered with the National Center for Missing and Exploited Children on how to handle guests who bring children to our hotels and casinos. We have conducted training on this topic and implemented other ways to prevent access by minors and to enforce the minimum casino playing age of 21. We have also established voluntary advertising and marketing guidelines to target these activities only at adults.

When it comes to pathological gambling and other responsible gaming issues, the commercial casino industry's funding of cutting-edge research through the National Center for Responsible Gaming was commended by the National Gambling Impact Study Commission in

its Final Report. Much of this research is directed at how to understand and reduce youth gambling problems.

The narrow legal issue of Nevada's status under PASPA is of direct concern to only one out of the fifty states, even though we submit that each of the other 46 states with various forms of legal gaming should be very concerned about retroactive federal preemption of state gaming decisions, as S. 2021 and S. 2267 propose

Should the NCAA prevail in their crusade against legal sports wagering, there will be millions of disappointed customers and many displaced employees in Nevada, at least in the short term. If nothing else, Nevadans have displayed their resiliency in recent years, first as our state lost its long-held monopoly over commercial casinos and then as the market absorbed thousands of new hotel rooms faster than most expected.

Nevada will survive. We will find other ways to market the rooms of those filled this month by sports fans who asked nothing more than to be able to make a legal sports wager while enjoying everything else our destination resorts offer.

However, passing S. 2021 or S. 2267 will do nothing to change the atmosphere on our nation's campuses, where the problem clearly originates when it comes to illegal sports gambling on campuses. The NCAA and its members, who commendably acknowledged their shortcomings as recently as last year, will have little additional incentive to act more forcefully than they have to date. Similarly, nothing will have been done to improve law enforcement on and off campus, increase research, or bring treatment and prevention programs into wider use.

The conclusion of the University of Michigan study on the wider extent of gambling

problems on campus, particularly among student athletes, said it best: "The great American institution of intercollegiate sports depends on a comprehensive response to this problem" (emphasis added).

We strongly urge you to reject the NCAA's well-meaning but misguided proposal to ban Nevada's legal college sports wagers, and as an alternative, convene a panel of experts from relevant fields in keeping with what the NCAA once sought and with what the NGISC recommended to Congress last year. The charge to this panel should be to knock heads and development a comprehensive set of measures for all relevant parties, in and out of government, to implement.

Thank you for the opportunity to present our views on these important issues. I would be pleased to answer your questions and be of whatever other assistance the Committee deems appropriate.

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